

## Going the Distance

IF YOU'RE GOING TO START SOMETHING, YOU'D BETTER BE READY TO FINISH IT!

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If you carefully read the "No More Using PTs to Correct Subluxations" article on the front page of this issue, you noticed that this partial victory didn't come overnight. It began with many meetings, reports, written correspondence and negotiations that ultimately resulted in a lawsuit (still in progress) against a government agency. This victory came with a price that can be measured in dollars, hours and the refusal to ever give up.

The effort began with many meetings and communications with various people within the Department of Health and Human Services (HHS) as early as 1989. These culminated in the first of several high-level meetings on April 7, 1995 between a team from the American Chiropractic Association (ACA), Donna Shalala (then the secretary of HHS), and other HHS officials. The ACA team consisted of Lowry Morton, DC (then the chairman); Richard Miller, vice president of governmental relations; and Tom Daly, the legal council.

Numerous additional meetings, formal correspondence and reports followed on a consistent regular basis. Some of the meeting highlights included:

- November 26, 1997 - ACA legislative staff and legal counsel met with Mr. Bruce Fried, director, Center for Health Plans and Policies (part of HCFA).
- January - June 1998 - ACA legislative staff met with members of Congress. Thirty-eight members of Congress responded to these meetings by writing formal letters to HHS Secretary Shalala, including: Senate Minority Leader Tom Daschle (D-SD); Senators Strom Thurmond (R-SC) and Tom Harkin (D-IA); Representatives Dennis Hastert (R-IL) and Fred Upton (R-MI); and the entire Massachusetts House delegation.
- July 9, 1998 - ACA staff and ACA Legal Counsel met with Dr. Robert Berenson, the new director, Center for Health Plans and Providers of HCFA.

But almost 10 years of constant effort in the form of meetings, formal communications, reports, etc., proved fruitless. On June 26, 1998, HCFA published an interim final rule to implement the Medicare+Choice program. This interim final rule included the QISMC guidelines, which allowed managed care plans to use physicians and other nonphysician practitioners (physical therapists) to provide the chiropractic benefit of manual manipulation of the spine to correct a subluxation.

A lawsuit against HHS Secretary Shalala was the only alternative. It was filed on November 9, 1998.

As most lawsuits go, this one saw no shortage of action. The highlights included:

- May 18, 1999 - Still working with Congress, ACA filed an amended complaint.
- September 2, 1999 - HHS filed a motion to dismiss.

- November 8/19, 1999 - ACA filed memorandums in response to HHS' motion to dismiss.
- November 26, 1999 - HHS filed its responses.
- July 14, 2000 - Court ruled that ACA had legal standing to pursue case.
- January 25, 2001 - Court ruled against HHS' motion to dismiss.
- April 20, 2001 - American Physical Therapy Association (APTA) sought to intervene against the ACA in the lawsuit.
- September 13, 2001 - ACA and HHS filed their initial motions for summary judgment.

During this period, the ACA leadership had to continually support the effort with extensive resources. Chairman Ed Mauer, DC, saw to the filing of the lawsuit after Dr. Morton's meeting with Secretary Shalala proved fruitless. From that time, ACA Chairmen Mike Flynn, DC, and Jim Edwards, DC, "stayed the course" and kept up the pressure.

This lawsuit will likely come to its conclusion under the leadership of the next ACA chairperson, and like the fight with the American Medical Association, this has already lasted more than 10 years.

But that's what it takes to win. There is almost never a quick fix, and a knockout punch rarely happens early in the fight. If you're in a fight and aren't willing to do what it takes to win, you'd better get out!

This is not the only arena in which chiropractic has been forced to take up arms and do battle. And while this partial victory was long in coming, it is no less sweet and no less critical to the welfare of our patients and practices.

What battles are waiting to be fought in your area?

Are there state legislative battles that need to be won?

Is there a hospital in your community that still refuses to cooperate with DCs on any level?

This recent policy letter shows us that we can win. We just have to be determined that this is our only choice. As a friend of mine recently said:

"I fight only two kinds of battles: those I've won, and those I'm in the process of winning."

If you knew him, you'd know he never quits. It's become his reputation. It should become ours as well.

Major victories are seldom won by individuals. It took a decade of commitment (in the form of ACA member dues and outside contributions) to fight this fight. If we are going to win, we must do it together.

For this reason, we are beginning a new column specifically designed to share stories of DCs working together to accomplish chiropractic goals. It will be a chance to share the victories and learn from the valiant. These articles don't have to be about lawsuits or political battles. Victories

occur on many levels. DCs in a small community being recognized for working together for the good of the community goes a long way toward opening the door for other doctors of chiropractic.

There is much to be done - just look around. We need to celebrate every time we try and win; every time we overcome some type of oppression or raise the awareness of chiropractic. Those success stories need to be told.

Let's encourage each other with the message that we can overcome the obstacles still in our way. We've begun to sing the songs of victory, why stop now?

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